

ssembly of December session, 1841, ch., 262, since which time, two supplements have been passed; the first in 1843, ch. 287, the last in 1844, ch. 306.

By the second section of the original act, the causes for which divorces a *vinculo matrimonii*, may be granted, are stated. These are five in number, and the fourth, which is supposed to embrace this case, authorises the court to decree a divorce of this absolute character "when the party complained against has abandoned the party complaining, and has remained absent from the state for five years." By the third section of the same act, a divorce *a mensa et thoro* may be granted for abandonment and desertion, without regard to its duration, or the absence of the party from the state.

The act of 1844, ch. 306, repeals those portions of the second section of the original act, which requires absence from the state for five years, on the part of the party complained against, as a cause of divorce a *vinculo matrimonii*, with a proviso that no such decree shall be passed on account of abandonment, unless the court shall be satisfied, by competent proof, that such abandonment has continued uninterruptedly for at least three years, and is deliberate and final, and the separation of the parties beyond any reasonable expectation of reconciliation.

This latter law, it is supposed by the complainant's solicitor, not only changes so much of the act of 1841, ch. 262, as makes it necessary that the party complained against, should have remained absent from the state for five years, but renders absence from the state, for a *period*, unnecessary. It is not clear, however, that this is the true construction of the act of 1844. Its language is, "that all such parts of the second section of the act to which it is a supplement, as requires absence from the state for *five years*, &c. be and the same are hereby repealed." It does not say that absence from the state for *any period*, shall not be necessary to entitle a party to an absolute divorce, but that absence for *five years*, shall not be required. If the legislature had designed to dispense with the absence from the state altogether, as one of the ingredients constituting the ground for an absolute divorce, it is presumed they would have expressed